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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Julie Straub, David Altreuter, Howard Bernstein, Donald E. Chickering, III,
Sarwat Khattak, and Greg Randall

Serial No.: 10/053,929

Art Unit: 1618

Filed: January 22, 2002

Examiner: Blessing M. Fubara

For: *POROUS DRUG MATRICES AND METHODS OF MANUFACTURE THEREOF*

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**TRANSMITTAL OF TERMINAL DISCLAIMER
AND NOTICE OF APPEAL**

Sir:

Responsive to the Office Action mailed on October 16, 2008, Applicants submit a Terminal Disclaimer and two (2) Statements under 37 C.F.R. §3.73(b). The Commissioner is hereby authorized to charge \$140, the fee a Terminal Disclaimer for a large entity, to Deposit Account No. 50-3129.

Applicants also submit a Notice of Appeal. The fee for a Notice of Appeal was previously paid on April 9, 2007. The fee for a Notice of Appeal has since increased from \$500 to \$540. The Commissioner is hereby authorized to charge \$40, the difference between the fee

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for a Notice of Appeal that was previously paid and the current fee for a large entity, to Deposit
Account No. 50-3129.

Applicants believe that no additional fee is due at this time. However, should an
additional fee be required, the Commissioner is hereby authorized to charge the fee to Deposit
Account No. 50-3129.

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Remarks

Claims 16-21 and 34 were rejected under the judicially created doctrine of obviousness-type double patenting as being obvious in view of claims 1-13 and 19 of U.S. Patent No. 6,800,297 to Altreuter *et al.* In response, Applicants submit a terminal disclaimer to overcome the obviousness-type double patenting rejection.

Applicants are also submitting a Notice of Appeal and will submit an Appeal Brief to appeal the Examiner's final rejection of claims 16-21 and 34 under 35 U.S.C. § 103(a) over U.S. Patent Application Publication No. 2001/0018072 to Unger ("Unger").

Respectfully submitted,


Rivka D. Monheit
Reg. No. 48,731

Date: December 8, 2008

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